

NOTICE: Formatting and page numbering in this document are different from that in the original published version.

SIXTIETH LEGISLATURE - REGULAR SESSION

FORTY FOURTH DAY

House Chamber, Olympia, Tuesday, February 26, 2008

The House was called to order at 9:55 a.m. by the Speaker (Representative Moeller presiding).

Reading of the Journal of the previous day was dispensed with and it was ordered to stand approved.

INTRODUCTION & FIRST READING

HB 3377 by Representatives Hunter, Linville, Green and Ormsby

AN ACT Relating to funding the Neah Bay rescue tug; amending RCW 82.23B.020; and making an appropriation.

Referred to Committee on Finance.

There being no objection, the bill listed on the day's introduction sheet under the fourth order of business was referred to the committees so designated.

REPORTS OF STANDING COMMITTEES

February 22, 2008

HB 2649 Prime Sponsor, Representative Alexander: Authorizing state general obligation bonds for the state's share of the Centralia-Chehalis flood control project. Reported by Committee on Capital Budget

MAJORITY recommendation: Do pass. Signed by Representatives Fromhold, Chair; Ormsby, Vice Chair; Schual-Berke, Vice Chair; McDonald, Ranking Minority Member; Newhouse, Assistant Ranking Minority Member; Appleton; Blake; Chase; Dunshee; Eickmeyer; Flannigan; Hankins; Hasegawa; Kelley; McCune; Orcutt; Pearson; Pedersen; Sells; Skinner; Smith and Upthegrove.

Passed to Committee on Rules for second reading.

February 22, 2008

SB 6215 Prime Sponsor, Senator Tom: Concerning reserve accounts and studies for condominium associations. Reported by Committee on Judiciary

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. A new section is added to chapter 64.34 RCW under the subchapter heading "Article 3" to read as follows:

(1) An association is encouraged to establish a reserve account to fund major maintenance, repair, and replacement of common elements, including limited common elements that will require major maintenance, repair, or replacement within thirty years. A reserve account shall be established in the name of the association. The board of directors is responsible for administering the reserve account.

(2) Unless doing so would impose an unreasonable hardship, an association shall prepare and update a reserve study, in accordance with the association's governing documents and RCW 64.34.224(1). The initial reserve study must be based upon a visual site inspection conducted by a reserve study professional.

(3) Unless doing so would impose an unreasonable hardship, the association shall update the reserve study annually. At least every three years, an updated reserve study must be prepared and based upon a visual site inspection conducted by a reserve study professional.

(4) This section and sections 2 through 6 of this act apply to condominiums governed by chapter 64.32 RCW or this chapter and intended in whole or in part for residential purposes. These sections do not apply to condominiums consisting solely of units that are restricted in the declaration to nonresidential use. An association's governing documents may contain stricter requirements.

NEW SECTION. Sec. 2. A new section is added to chapter 64.34 RCW under the subchapter heading "Article 3" to read as follows:

(1) A reserve study as described in section 1 of this act is supplemental to the association's operating and maintenance budget. In preparing a reserve study, the association shall estimate the anticipated major maintenance, repair, and replacement costs, whose infrequent and significant nature make them impractical to be included in an annual budget.

(2) A reserve study shall include:

(a) A reserve component list, including quantities and estimates for useful life of each reserve component, remaining useful life of each reserve component, and current repair and replacement cost for each component;

(b) The date of the study and a statement that the study meets the requirements of this section;

(c) The level of reserve study performed:

(i) Level I: Full reserve study funding analysis and plan;

- (ii) Level II: Update with visual site inspection;
 - (iii) Level III: Update with no visual site inspection;
 - (d) The association's reserve account balance;
 - (e) The percentage of the fully funded balance that the reserve account is funded;
 - (f) Special assessments already implemented or planned;
 - (g) Interest and inflation assumptions;
 - (h) Current reserve account contribution rate;
 - (i) Recommended reserve account contribution rate;
 - (j) Projected reserve account balance for thirty years and a funding plan to pay for projected costs from those reserves without reliance on future unplanned special assessments; and
 - (k) Whether the reserve study was prepared with the assistance of a reserve study professional.
- (3) A reserve study shall include the following disclosure:

"This reserve study should be reviewed carefully. It may not include all common and limited common element components that will require major maintenance, repair, or replacement in future years, and may not include regular contributions to a reserve account for the cost of such maintenance, repair, or replacement. The failure to include a component in a reserve study, or to provide contributions to a reserve account for a component, may, under some circumstances, require you to pay on demand as a special assessment your share of common expenses for the cost of major maintenance, repair, or replacement of a reserve component."

NEW SECTION. Sec. 3. A new section is added to chapter 64.34 RCW under the subchapter heading "Article 3" to read as follows:

An association may withdraw funds from its reserve account to pay for unforeseen or unbudgeted costs. The board of directors shall record any such withdrawal in the minute books of the association, cause notice of any such withdrawal to be hand delivered or sent prepaid by first-class United States mail to the mailing address of each unit or to any other mailing address designated in writing by the unit owner, and adopt a repayment schedule not to exceed twenty-four months unless it determines that repayment within twenty-four months would impose an unreasonable burden on the unit owners.

NEW SECTION. Sec. 4. A new section is added to chapter 64.34 RCW under the subchapter heading "Article 3" to read as follows:

(1) Where more than three years have passed since the date of the last reserve study prepared by a reserve study professional, the owners of the units to which at least twenty percent of the votes are allocated may demand, in writing, to the association that the cost of a reserve study be included in the next budget and that the study be obtained by the end of that budget year. The written demand must refer to this section. The board of directors shall, upon receipt of the written demand, provide unit owners making the demand reasonable assurance that the board of directors will include a reserve study in the next budget and, if the budget is not rejected by the owners, will arrange for the completion of a reserve study.

(2) In the event a written demand is made and a reserve study is not timely prepared, a court may order specific performance and award reasonable attorneys' fees to the prevailing party in any legal action brought to enforce this section. An association may assert unreasonable hardship as an affirmative defense in any action brought against it under this section. Without limiting this affirmative

defense, an unreasonable hardship exists where the cost of preparing a reserve study would exceed ten percent of the association's annual budget.

(3) A unit owner's duty to pay for common expenses shall not be excused because of the association's failure to comply with this section or sections 2 through 6 of this act. A budget ratified by the unit owners under RCW 64.34.308(3) may not be invalidated because of the association's failure to comply with this section or sections 2 through 6 of this act.

NEW SECTION. Sec. 5. A new section is added to chapter 64.34 RCW under the subchapter heading "Article 3" to read as follows:

Subject to section 4 of this act, the decisions relating to the preparation and updating of a reserve study must be made by the board of directors of the association in the exercise of the reasonable discretion of the board. Such decisions must include whether a reserve study will be prepared or updated, and whether the assistance of a reserve study professional will be utilized.

NEW SECTION. Sec. 6. A new section is added to chapter 64.34 RCW under the subchapter heading "Article 3" to read as follows:

Monetary damages or any other liability may not be awarded against or imposed upon the association, the officers or board of directors of the association, or those persons who may have provided advice or assistance to the association or its officers or directors, for failure to: Establish a reserve account; have a current reserve study prepared or updated in accordance with sections 1 through 5 of this act; or make the reserve disclosures in accordance with section 2 of this act and RCW 64.34.410(1)(oo) and 64.34.425(1)(s).

Sec. 7. RCW 64.34.010 and 1993 c 429 s 12 are each amended to read as follows:

(1) This chapter applies to all condominiums created within this state after July 1, 1990. RCW 64.34.040 (separate titles and taxation), RCW 64.34.050 (applicability of local ordinances, regulations, and building codes), RCW 64.34.060 (condemnation), RCW 64.34.208 (construction and validity of declaration and bylaws), RCW 64.34.212 (description of units), RCW 64.34.304(1) (a) through (f) and (k) through (r) (powers of unit owners' association), RCW 64.34.308(1) (board of directors and officers), RCW 64.34.340 (voting-proxies), RCW 64.34.344 (tort and contract liability), RCW 64.34.354 (notification on sale of unit), RCW 64.34.360(3) (common expenses-assessments), RCW 64.34.364 (lien for assessments), RCW 64.34.372 (association records), RCW 64.34.425 (resales of units), RCW 64.34.455 (effect of violation on rights of action; attorney's fees), sections 1 through 6 of this act (reserve studies and accounts), and RCW 64.34.020 (definitions) to the extent necessary in construing any of those sections, apply to all condominiums created in this state before July 1, 1990; but those sections apply only with respect to events and circumstances occurring after July 1, 1990, and do not invalidate or supersede existing, inconsistent provisions of the declaration, bylaws, or survey maps or plans of those condominiums.

(2) The provisions of chapter 64.32 RCW do not apply to condominiums created after July 1, 1990, and do not invalidate any amendment to the declaration, bylaws, and survey maps and plans of any condominium created before July 1, 1990, if the amendment would be permitted by this chapter. The amendment must be adopted in conformity with the procedures and requirements specified by those instruments and by chapter 64.32 RCW. If the amendment

grants to any person any rights, powers, or privileges permitted by this chapter which are not otherwise provided for in the declaration or chapter 64.32 RCW, all correlative obligations, liabilities, and restrictions in this chapter also apply to that person.

(3) This chapter does not apply to condominiums or units located outside this state.

(4) RCW 64.34.400 (applicability-waiver), RCW 64.34.405 (liability for public offering statement requirements), RCW 64.34.410 (public offering statement-general provisions), RCW 64.34.415 (public offering statement-conversion condominiums), RCW 64.34.420 (purchaser's right to cancel), RCW 64.34.430 (escrow of deposits), RCW 64.34.440 (conversion condominiums-notice-tenants), and RCW 64.34.455 (effect of violations on rights of action-attorney's fees) apply with respect to all sales of units pursuant to purchase agreements entered into after July 1, 1990, in condominiums created before July 1, 1990, in which as of July 1, 1990, the declarant or an affiliate of the declarant owns or had the right to create at least ten units constituting at least twenty percent of the units in the condominium.

Sec. 8. RCW 64.34.020 and 2004 c 201 s 9 are each amended to read as follows:

In the declaration and bylaws, unless specifically provided otherwise or the context requires otherwise, and in this chapter:

(1) "Affiliate" means any person who controls, is controlled by, or is under common control with the referenced person. A person "controls" another person if the person: (a) Is a general partner, officer, director, or employer of the referenced person; (b) directly or indirectly or acting in concert with one or more other persons, or through one or more subsidiaries, owns, controls, holds with power to vote, or holds proxies representing, more than twenty percent of the voting interest in the referenced person; (c) controls in any manner the election of a majority of the directors of the referenced person; or (d) has contributed more than twenty percent of the capital of the referenced person. A person "is controlled by" another person if the other person: (i) Is a general partner, officer, director, or employer of the person; (ii) directly or indirectly or acting in concert with one or more other persons, or through one or more subsidiaries, owns, controls, holds with power to vote, or holds proxies representing, more than twenty percent of the voting interest in the person; (iii) controls in any manner the election of a majority of the directors of the person; or (iv) has contributed more than twenty percent of the capital of the person. Control does not exist if the powers described in this subsection are held solely as security for an obligation and are not exercised.

(2) "Allocated interests" means the undivided interest in the common elements, the common expense liability, and votes in the association allocated to each unit.

(3) "Assessment" means all sums chargeable by the association against a unit including, without limitation: (a) Regular and special assessments for common expenses, charges, and fines imposed by the association; (b) interest and late charges on any delinquent account; and (c) costs of collection, including reasonable attorneys' fees, incurred by the association in connection with the collection of a delinquent owner's account.

(4) "Association" or "unit owners' association" means the unit owners' association organized under RCW 64.34.300.

(5) "Board of directors" means the body, regardless of name, with primary authority to manage the affairs of the association.

(6) "Common elements" means all portions of a condominium other than the units.

(7) "Common expenses" means expenditures made by or financial liabilities of the association, together with any allocations to reserves.

(8) "Common expense liability" means the liability for common expenses allocated to each unit pursuant to RCW 64.34.224.

(9) "Condominium" means real property, portions of which are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of those portions. Real property is not a condominium unless the undivided interests in the common elements are vested in the unit owners, and unless a declaration and a survey map and plans have been recorded pursuant to this chapter.

(10) "Contribution rate" means, in a reserve study as described in section 1 of this act, the amount contributed to the reserve account so that the association will have cash reserves to pay major maintenance, repair, or replacement costs without the need of a special assessment.

(11) "Conversion condominium" means a condominium (a) that at any time before creation of the condominium was lawfully occupied wholly or partially by a tenant or subtenant for residential purposes pursuant to a rental agreement, oral or written, express or implied, for which the tenant or subtenant had not received the notice described in (b) of this subsection; or (b) that, at any time within twelve months before the conveyance of, or acceptance of an agreement to convey, any unit therein other than to a declarant or any affiliate of a declarant, was lawfully occupied wholly or partially by a residential tenant of a declarant or an affiliate of a declarant and such tenant was not notified in writing, prior to lawfully occupying a unit or executing a rental agreement, whichever event first occurs, that the unit was part of a condominium and subject to sale. "Conversion condominium" shall not include a condominium in which, before July 1, 1990, any unit therein had been conveyed or been made subject to an agreement to convey to any transferee other than a declarant or an affiliate of a declarant.

~~((11))~~ (12) "Conveyance" means any transfer of the ownership of a unit, including a transfer by deed or by real estate contract and, with respect to a unit in a leasehold condominium, a transfer by lease or assignment thereof, but shall not include a transfer solely for security.

~~((12))~~ (13) "Dealer" means a person who, together with such person's affiliates, owns or has a right to acquire either six or more units in a condominium or fifty percent or more of the units in a condominium containing more than two units.

~~((13))~~ (14) "Declarant" means:

(a) Any person who executes as declarant a declaration as defined in subsection ~~((15))~~ (16) of this section; or

(b) Any person who reserves any special declarant right in the declaration; or

(c) Any person who exercises special declarant rights or to whom special declarant rights are transferred; or

(d) Any person who is the owner of a fee interest in the real property which is subjected to the declaration at the time of the recording of an instrument pursuant to RCW 64.34.316 and who directly or through one or more affiliates is materially involved in the construction, marketing, or sale of units in the condominium created by the recording of the instrument.

~~((14))~~ (15) "Declarant control" means the right of the declarant or persons designated by the declarant to appoint and remove officers and members of the board of directors, or to veto or approve a proposed action of the board or association, pursuant to RCW 64.34.308 (4) or (5).

~~((15))~~ (16) "Declaration" means the document, however denominated, that creates a condominium by setting forth the information required by RCW 64.34.216 and any amendments to that document.

~~((16))~~ (17) "Development rights" means any right or combination of rights reserved by a declarant in the declaration to: (a) Add real property or improvements to a condominium; (b) create units, common elements, or limited common elements within real property included or added to a condominium; (c) subdivide units or convert units into common elements; (d) withdraw real property from a condominium; or (e) reallocate limited common elements with respect to units that have not been conveyed by the declarant.

~~((17))~~ (18) "Dispose" or "disposition" means a voluntary transfer or conveyance to a purchaser or lessee of any legal or equitable interest in a unit, but does not include the transfer or release of a security interest.

~~((18))~~ (19) "Effective age" means the difference between useful life and remaining useful life.

~~((19))~~ (20) "Eligible mortgagee" means the holder of a mortgage on a unit that has filed with the secretary of the association a written request that it be given copies of notices of any action by the association that requires the consent of mortgagees.

~~((19))~~ (21) "Foreclosure" means a forfeiture or judicial or nonjudicial foreclosure of a mortgage or a deed in lieu thereof.

~~((20))~~ (22) "Fully funded balance" means the value of the deteriorated portion of all the reserve components. The fully funded balance for each reserve component is calculated by multiplying the current replacement cost of that reserve component by its effective age, then dividing the result by that reserve component's useful life. The sum total of all reserve components' fully funded balances is the association's fully funded balance.

~~((21))~~ (23) "Identifying number" means the designation of each unit in a condominium.

~~((22))~~ (24) "Leasehold condominium" means a condominium in which all or a portion of the real property is subject to a lease, the expiration or termination of which will terminate the condominium or reduce its size.

~~((23))~~ (25) "Limited common element" means a portion of the common elements allocated by the declaration or by operation of RCW 64.34.204 (2) or (4) for the exclusive use of one or more but fewer than all of the units.

~~((24))~~ (26) "Master association" means an organization described in RCW 64.34.276, whether or not it is also an association described in RCW 64.34.300.

~~((25))~~ (27) "Mortgage" means a mortgage, deed of trust or real estate contract.

~~((26))~~ (28) "Person" means a natural person, corporation, partnership, limited partnership, trust, governmental subdivision or agency, or other legal entity.

~~((27))~~ (29) "Purchaser" means any person, other than a declarant or a dealer, who by means of a disposition acquires a legal or equitable interest in a unit other than (a) a leasehold interest, including renewal options, of less than twenty years at the time of creation of the unit, or (b) as security for an obligation.

~~((28))~~ (30) "Real property" means any fee, leasehold or other estate or interest in, over, or under land, including structures, fixtures, and other improvements thereon and easements, rights and interests appurtenant thereto which by custom, usage, or law pass with a conveyance of land although not described in the contract of sale or instrument of conveyance. "Real property" includes parcels, with or without upper or lower boundaries, and spaces that may be filled with air or water.

~~((28))~~ (31) "Remaining useful life" means the estimated time, in years, that a reserve component can be expected to continue to serve its intended function.

~~((29))~~ (32) "Replacement cost" means the current cost of replacing, repairing, or restoring a reserve component to its original functional condition.

~~((30))~~ (33) "Residential purposes" means use for dwelling or recreational purposes, or both.

~~((29))~~ (34) "Reserve components" means common elements whose cost of maintenance, repair, or replacement is infrequent, significant, and impractical to include in an annual budget.

~~((30))~~ (35) "Reserve study professional" means an independent person suitably qualified by knowledge, skill, experience, training, or education to prepare a reserve study in accordance with sections 1 and 2 of this act.

~~((31))~~ (36) "Special declarant rights" means rights reserved for the benefit of a declarant to: (a) Complete improvements indicated on survey maps and plans filed with the declaration under RCW 64.34.232; (b) exercise any development right under RCW 64.34.236; (c) maintain sales offices, management offices, signs advertising the condominium, and models under RCW 64.34.256; (d) use easements through the common elements for the purpose of making improvements within the condominium or within real property which may be added to the condominium under RCW 64.34.260; (e) make the condominium part of a larger condominium or a development under RCW 64.34.280; (f) make the condominium subject to a master association under RCW 64.34.276; or (g) appoint or remove any officer of the association or any master association or any member of the board of directors, or to veto or approve a proposed action of the board or association, during any period of declarant control under RCW 64.34.308(4).

~~((30))~~ (37) "Timeshare" shall have the meaning specified in the timeshare act, RCW 64.36.010(11).

~~((31))~~ (38) "Unit" means a physical portion of the condominium designated for separate ownership, the boundaries of which are described pursuant to RCW 64.34.216(1)(d). "Separate ownership" includes leasing a unit in a leasehold condominium under a lease that expires contemporaneously with any lease, the expiration or termination of which will remove the unit from the condominium.

~~((32))~~ (39) "Unit owner" means a declarant or other person who owns a unit or leases a unit in a leasehold condominium under a lease that expires simultaneously with any lease, the expiration or termination of which will remove the unit from the condominium, but does not include a person who has an interest in a unit solely as security for an obligation. "Unit owner" means the vendee, not the vendor, of a unit under a real estate contract.

~~((33))~~ (40) "Useful life" means the estimated time, in years, that a reserve component can be expected to serve its intended function.

Sec. 9. RCW 64.34.304 and 1993 c 429 s 11 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, and subject to the provisions of the declaration, the association may:

(a) Adopt and amend bylaws, rules, and regulations;
 (b) Adopt and amend budgets for revenues, expenditures, and reserves, and impose and collect assessments for common expenses from unit owners;

(c) Hire and discharge or contract with managing agents and other employees, agents, and independent contractors;

(d) Institute, defend, or intervene in litigation or administrative proceedings in its own name on behalf of itself or two or more unit owners on matters affecting the condominium;

- (e) Make contracts and incur liabilities;
 - (f) Regulate the use, maintenance, repair, replacement, and modification of common elements;
 - (g) Cause additional improvements to be made as a part of the common elements;
 - (h) Acquire, hold, encumber, and convey in its own name any right, title, or interest to real or personal property, but common elements may be conveyed or subjected to a security interest only pursuant to RCW 64.34.348;
 - (i) Grant easements, leases, licenses, and concessions through or over the common elements and petition for or consent to the vacation of streets and alleys;
 - (j) Impose and collect any payments, fees, or charges for the use, rental, or operation of the common elements, other than limited common elements described in RCW 64.34.204 (2) and (4), and for services provided to unit owners;
 - (k) Impose and collect charges for late payment of assessments pursuant to RCW 64.34.364(13) and, after notice and an opportunity to be heard by the board of directors or by such representative designated by the board of directors and in accordance with such procedures as provided in the declaration or bylaws or rules and regulations adopted by the board of directors, levy reasonable fines in accordance with a previously established schedule thereof adopted by the board of directors and furnished to the owners for violations of the declaration, bylaws, and rules and regulations of the association;
 - (l) Impose and collect reasonable charges for the preparation and recording of amendments to the declaration, resale certificates required by RCW 64.34.425, and statements of unpaid assessments;
 - (m) Provide for the indemnification of its officers and board of directors and maintain directors' and officers' liability insurance;
 - (n) Assign its right to future income, including the right to receive common expense assessments, but only to the extent the declaration provides;
 - (o) Join in a petition for the establishment of a parking and business improvement area, participate in the rate payers' board or other advisory body set up by the legislative authority for operation of a parking and business improvement area, and pay special assessments levied by the legislative authority on a parking and business improvement area encompassing the condominium property for activities and projects which benefit the condominium directly or indirectly;
 - (p) Establish and administer a reserve account as described in section 1 of this act;
 - (q) Prepare a reserve study as described in section 1 of this act;
 - (r) Exercise any other powers conferred by the declaration or bylaws;
 - ~~((+))~~ (s) Exercise all other powers that may be exercised in this state by the same type of corporation as the association; and
 - ~~((+))~~ (t) Exercise any other powers necessary and proper for the governance and operation of the association.
- (2) The declaration may not impose limitations on the power of the association to deal with the declarant which are more restrictive than the limitations imposed on the power of the association to deal with other persons.

Sec. 10. RCW 64.34.410 and 2005 c 456 s 19 are each amended to read as follows:

- (1) A public offering statement shall contain the following information:
 - (a) The name and address of the condominium;
 - (b) The name and address of the declarant;

- (c) The name and address of the management company, if any;
- (d) The relationship of the management company to the declarant, if any;
- (e) A list of up to the five most recent condominium projects completed by the declarant or an affiliate of the declarant within the past five years, including the names of the condominiums, their addresses, and the number of existing units in each. For the purpose of this section, a condominium is "completed" when any one unit therein has been rented or sold;
- (f) The nature of the interest being offered for sale;
- (g) A brief description of the permitted uses and use restrictions pertaining to the units and the common elements;
- (h) A brief description of the restrictions, if any, on the renting or leasing of units by the declarant or other unit owners, together with the rights, if any, of the declarant to rent or lease at least a majority of units;
- (i) The number of existing units in the condominium and the maximum number of units that may be added to the condominium;
- (j) A list of the principal common amenities in the condominium which materially affect the value of the condominium and those that will or may be added to the condominium;
- (k) A list of the limited common elements assigned to the units being offered for sale;
- (l) The identification of any real property not in the condominium, the owner of which has access to any of the common elements, and a description of the terms of such access;
- (m) The identification of any real property not in the condominium to which unit owners have access and a description of the terms of such access;
- (n) The status of construction of the units and common elements, including estimated dates of completion if not completed;
- (o) The estimated current common expense liability for the units being offered;
- (p) An estimate of any payment with respect to the common expense liability for the units being offered which will be due at closing;
- (q) The estimated current amount and purpose of any fees not included in the common expenses and charged by the declarant or the association for the use of any of the common elements;
- (r) Any assessments which have been agreed to or are known to the declarant and which, if not paid, may constitute a lien against any units or common elements in favor of any governmental agency;
- (s) The identification of any parts of the condominium, other than the units, which any individual owner will have the responsibility for maintaining;
- (t) If the condominium involves a conversion condominium, the information required by RCW 64.34.415;
- (u) Whether timesharing is restricted or prohibited, and if restricted, a general description of such restrictions;
- (v) A list of all development rights reserved to the declarant and all special declarant rights reserved to the declarant, together with the dates such rights must terminate, and a copy of or reference by recording number to any recorded transfer of a special declarant right;
- (w) A description of any material differences in terms of furnishings, fixtures, finishes, and equipment between any model unit available to the purchaser at the time the agreement for sale is executed and the unit being offered;
- (x) Any liens on real property to be conveyed to the association required to be disclosed pursuant to RCW 64.34.435(2)(b);
- (y) A list of any physical hazards known to the declarant which particularly affect the condominium or the immediate vicinity in

which the condominium is located and which are not readily ascertainable by the purchaser;

(z) A brief description of any construction warranties to be provided to the purchaser;

(aa) Any building code violation citations received by the declarant in connection with the condominium which have not been corrected;

(bb) A statement of any unsatisfied judgments or pending suits against the association, a statement of the status of any pending suits material to the condominium of which the declarant has actual knowledge, and a statement of any litigation brought by an owners' association, unit owner, or governmental entity in which the declarant or any affiliate of the declarant has been a defendant, arising out of the construction, sale, or administration of any condominium within the previous five years, together with the results thereof, if known;

(cc) Any rights of first refusal to lease or purchase any unit or any of the common elements;

(dd) The extent to which the insurance provided by the association covers furnishings, fixtures, and equipment located in the unit;

(ee) A notice which describes a purchaser's right to cancel the purchase agreement or extend the closing under RCW 64.34.420, including applicable time frames and procedures;

(ff) Any reports or statements required by RCW 64.34.415 or 64.34.440(6)(a). RCW 64.34.415 shall apply to the public offering statement of a condominium in connection with which a final certificate of occupancy was issued more than sixty calendar months prior to the preparation of the public offering statement whether or not the condominium is a conversion condominium as defined in RCW 64.34.020~~((+0))~~ (11);

(gg) A list of the documents which the prospective purchaser is entitled to receive from the declarant before the rescission period commences;

(hh) A notice which states: A purchaser may not rely on any representation or express warranty unless it is contained in the public offering statement or made in writing signed by the declarant or by any person identified in the public offering statement as the declarant's agent;

(ii) A notice which states: This public offering statement is only a summary of some of the significant aspects of purchasing a unit in this condominium and the condominium documents are complex, contain other important information, and create binding legal obligations. You should consider seeking the assistance of legal counsel;

(jj) Any other information and cross-references which the declarant believes will be helpful in describing the condominium to the recipients of the public offering statement, all of which may be included or not included at the option of the declarant;

(kk) A notice that addresses compliance or noncompliance with the housing for older persons act of 1995, P.L. 104-76, as enacted on December 28, 1995;

(ll) A notice that is substantially in the form required by RCW 64.50.050;

(mm) A statement, as required by RCW 64.35.210, as to whether the units or common elements of the condominium are covered by a qualified warranty, and a history of claims under any such warranty; ~~((and))~~

(nn) A statement that the building enclosure has been designed and inspected as required by RCW 64.55.010 through 64.55.090, and, if required, repaired in accordance with the requirements of RCW 64.55.090; and

(oo) If the association does not have a reserve study that has been prepared in accordance with sections 1 and 2 of this act or its governing documents, the following disclosure:

"This association does not have a current reserve study. The lack of a current reserve study poses certain risks to you, the purchaser. Insufficient reserves may, under some circumstances, require you to pay on demand as a special assessment your share of common expenses for the cost of major maintenance, repair, or replacement of a common element."

(2) The public offering statement shall include copies of each of the following documents: The declaration, the survey map and plans, the articles of incorporation of the association, bylaws of the association, rules and regulations, if any, current or proposed budget for the association, the balance sheet of the association current within ninety days if assessments have been collected for ninety days or more, the association's current reserve study, if any, and the inspection and repair report or reports prepared in accordance with the requirements of RCW 64.55.090.

If any of the foregoing documents listed in this subsection are not available because they have not been executed, adopted, or recorded, drafts of such documents shall be provided with the public offering statement, and, before closing the sale of a unit, the purchaser shall be given copies of any material changes between the draft of the proposed documents and the final documents.

(3) The disclosures required by subsection (1)(g), (k), (s), (u), (v), and (cc) of this section shall also contain a reference to specific sections in the condominium documents which further explain the information disclosed.

(4) The disclosures required by subsection (1)(ee), (hh), (ii), and (ll) of this section shall be located at the top of the first page of the public offering statement and be typed or printed in ten-point bold face type size.

(5) A declarant shall promptly amend the public offering statement to reflect any material change in the information required by this section.

Sec. 11. RCW 64.34.425 and 2004 c 201 s 4 are each amended to read as follows:

(1) Except in the case of a sale where delivery of a public offering statement is required, or unless exempt under RCW 64.34.400(2), a unit owner shall furnish to a purchaser before execution of any contract for sale of a unit, or otherwise before conveyance, a resale certificate, signed by an officer or authorized agent of the association and based on the books and records of the association and the actual knowledge of the person signing the certificate, containing:

(a) A statement disclosing any right of first refusal or other restraint on the free alienability of the unit contained in the declaration;

(b) A statement setting forth the amount of the monthly common expense assessment and any unpaid common expense or special assessment currently due and payable from the selling unit owner and a statement of any special assessments that have been levied against the unit which have not been paid even though not yet due;

(c) A statement, which shall be current to within forty-five days, of any common expenses or special assessments against any unit in the condominium that are past due over thirty days;

(d) A statement, which shall be current to within forty-five days, of any obligation of the association which is past due over thirty days;

(e) A statement of any other fees payable by unit owners;

(f) A statement of any anticipated repair or replacement cost in excess of five percent of the annual budget of the association that has been approved by the board of directors;

(g) A statement of the amount of any reserves for repair or replacement and of any portions of those reserves currently designated by the association for any specified projects;

(h) The annual financial statement of the association, including the audit report if it has been prepared, for the year immediately preceding the current year;

(i) A balance sheet and a revenue and expense statement of the association prepared on an accrual basis, which shall be current to within one hundred twenty days;

(j) The current operating budget of the association;

(k) A statement of any unsatisfied judgments against the association and the status of any pending suits or legal proceedings in which the association is a plaintiff or defendant;

(l) A statement describing any insurance coverage provided for the benefit of unit owners;

(m) A statement as to whether there are any alterations or improvements to the unit or to the limited common elements assigned thereto that violate any provision of the declaration;

(n) A statement of the number of units, if any, still owned by the declarant, whether the declarant has transferred control of the association to the unit owners, and the date of such transfer;

(o) A statement as to whether there are any violations of the health or building codes with respect to the unit, the limited common elements assigned thereto, or any other portion of the condominium;

(p) A statement of the remaining term of any leasehold estate affecting the condominium and the provisions governing any extension or renewal thereof;

(q) A copy of the declaration, the bylaws, the rules or regulations of the association, the association's current reserve study, if any, and any other information reasonably requested by mortgagees of prospective purchasers of units. Information requested generally by the federal national mortgage association, the federal home loan bank board, the government national mortgage association, the veterans administration and the department of housing and urban development shall be deemed reasonable, provided such information is reasonably available to the association; ~~(and)~~

(r) A statement, as required by RCW 64.35.210, as to whether the units or common elements of the condominium are covered by a qualified warranty, and a history of claims under any such warranty; and

(s) If the association does not have a reserve study that has been prepared in accordance with sections 1 and 2 of this act or its governing documents, the following disclosure:

"This association does not have a current reserve study. The lack of a current reserve study poses certain risks to you, the purchaser. Insufficient reserves may, under some circumstances, require you to pay on demand as a special assessment your share of common expenses for the cost of major maintenance, repair, or replacement of a common element."

(2) The association, within ten days after a request by a unit owner, and subject to payment of any fee imposed pursuant to RCW 64.34.304(1)(l), shall furnish a resale certificate signed by an officer or authorized agent of the association and containing the information

necessary to enable the unit owner to comply with this section. For the purposes of this chapter, a reasonable charge for the preparation of a resale certificate may not exceed one hundred fifty dollars. The association may charge a unit owner a nominal fee for updating a resale certificate within six months of the unit owner's request. The unit owner shall also sign the certificate but the unit owner is not liable to the purchaser for any erroneous information provided by the association and included in the certificate unless and to the extent the unit owner had actual knowledge thereof.

(3) A purchaser is not liable for any unpaid assessment or fee against the unit as of the date of the certificate greater than the amount set forth in the certificate prepared by the association unless and to the extent such purchaser had actual knowledge thereof. A unit owner is not liable to a purchaser for the failure or delay of the association to provide the certificate in a timely manner, but the purchaser's contract is voidable by the purchaser until the certificate has been provided and for five days thereafter or until conveyance, whichever occurs first."

Correct the title.

Signed by Representatives Lantz, Chair; Goodman, Vice Chair; Warnick, Assistant Ranking Minority Member; Ahern; Flannigan; Kirby; Moeller; Pedersen; Ross and Williams.

Passed to Committee on Rules for second reading.

February 21, 2008

ESSB 6348 Prime Sponsor, Committee on Water, Energy & Telecommunications: Protecting rural communities from the harmful impacts of interwatershed water rights transfers. Reported by Committee on Agriculture & Natural Resources

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature finds that interwatershed water rights transfers pose a threat to the economic and social welfare of rural communities. Because it is increasingly difficult for water users to acquire new water rights, transfers are indeed a valuable and necessary water management tool. However, the permanent transfer of water rights away from Washington's rural communities has serious economic and social impacts. Although a rural water rights holder receives compensation for transferring water rights outside of a watershed, third parties such as laborers and supporting businesses suffer. The loss of water rights also reduces land use options and property values, resulting in a shrinking revenue base for rural local governments. Finally, the loss of water rights can permanently change the character of agricultural land and the surrounding rural community. Therefore, the legislature intends to protect rural communities from the permanent and harmful impacts of interwatershed water rights transfers.

NEW SECTION. Sec. 2. The department of ecology must work diligently with appropriate legislators, stakeholders, representatives

of appropriate tribal interests, and local governments within water resource inventory areas 43, 49, 50, 51, 52, 53, 54, 55, 57, 58, 59, 60, 61, and 62 to assess the impacts of interwatershed transfers on rural communities and explore existing and potential new water sources, including snowpack, that may be utilized in order to protect the economic and social welfare of rural communities. The department of ecology must submit a report, including detailed legislative and policy recommendations, to the appropriate committees of the legislature by November 1, 2008."

Correct the title.

Signed by Representatives Blake, Chair; Van De Wege, Vice Chair; Kretz, Ranking Minority Member; Warnick, Assistant Ranking Minority Member; Eickmeyer; Grant; Kristiansen; Lantz; Loomis; McCoy; Nelson; Newhouse and Orcutt.

Referred to Committee on Appropriations.

February 22, 2008

ESB 6357 Prime Sponsor, Senator Kohl-Welles: Regarding service of process in domestic violence cases. Reported by Committee on Judiciary

MAJORITY recommendation: Do pass. Signed by Representatives Lantz, Chair; Goodman, Vice Chair; Warnick, Assistant Ranking Minority Member; Ahern; Flannigan; Kirby; Moeller; Pedersen; Ross and Williams.

Passed to Committee on Rules for second reading.

February 22, 2008

SSB 6604 Prime Sponsor, Senate Committee on Labor, Commerce, Research & Development: Enhancing the mobility of certified public accountants. Reported by Committee on Commerce & Labor

MAJORITY recommendation: Do pass. Signed by Representatives Conway, Chair; Wood, Vice Chair; Condotta, Ranking Minority Member; Chandler, Assistant Ranking Minority Member; Green; Moeller and Williams.

Passed to Committee on Rules for second reading.

February 22, 2008

SSB 6751 Prime Sponsor, Senate Committee on Labor, Commerce, Research & Development: Allowing individuals who left work to enter certain apprenticeship programs to receive unemployment insurance benefits. Reported by Committee on Commerce & Labor

MAJORITY recommendation: Do pass as amended.

On page 5, line 20, after "council" insert ". Benefits are payable beginning Sunday of the week prior to the week in which the individual begins active participation in the apprenticeship program"

Signed by Representatives Conway, Chair; Wood, Vice Chair; Green; Moeller and Williams.

MINORITY recommendation: Do not pass. Signed by Representatives Condotta, Ranking Minority Member Chandler, Assistant Ranking Minority Member.

Passed to Committee on Rules for second reading.

February 21, 2008

E2SSB 6874 Prime Sponsor, Senate Committee on Ways & Means: Regarding Columbia river water delivery. Reported by Committee on Agriculture & Natural Resources

MAJORITY recommendation: Do pass as amended.

On page 2, line 3, after "water" insert "of approximately eighty-two thousand five hundred acre feet of water, increasing to no more than one hundred thirty-two thousand five hundred acre feet of water in drought years,"

Signed by Representatives Blake, Chair; Van De Wege, Vice Chair; Kretz, Ranking Minority Member; Warnick, Assistant Ranking Minority Member; Eickmeyer; Grant; Kristiansen; Lantz; Loomis; McCoy; Nelson; Newhouse and Orcutt.

Referred to Committee on Appropriations.

There being no objection, the bills listed on the day's committee reports sheet under the fifth order of business were referred to the committees so designated.

There being no objection, the House advanced to the eighth order of business.

There being no objection, the Committee on Rules was relieved of further consideration of HOUSE BILL NO. 3096, and the bill was placed on the Second Reading calendar.

There being no objection, the House advanced to the eleventh order of business.

There being no objection, the House adjourned until 10:00 a.m. Wednesday, February 27, 2008, the 45th Day of the Regular Session.

FRANK CHOPP, Speaker

BARBARA BAKER, Chief Clerk

